

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ASTRAZENECA AB, AKTIEBOLAGET
HÄSSLE, ASTRAZENECA LP, KBI INC.,
and KBI-E INC.,

Plaintiffs and
Counterclaim Defendants

v.

HANMI USA, INC., HANMI
PHARMACEUTICAL CO., LTD., HANMI FINE
CHEMICAL CO., LTD, and HANMI HOLDINGS
CO., LTD.,

Defendants and
Counterclaim-Plaintiffs.

Civil Action No. 3:11-cv-00760-JAP-TJB

Hon. Joel A. Pisano, USDJ
Hon. Tonianne J. Bongiovanni, USMJ

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WILLIAM T. WALSH - M
CLERK

CONSENT ORDER AND FINAL JUDGMENT

THIS MATTER having been opened to the Court (Hon. Joel A. Pisano, U.S.D.J.) upon the joint application of Plaintiffs AstraZeneca AB, Aktiebolaget Hässle, AstraZeneca LP (hereinafter collectively "AstraZeneca") and Plaintiffs KBI Inc. and KBI-E Inc. (hereinafter collectively "KBI") and Defendants Hanmi USA Inc., Hanmi Pharmaceutical Co., Ltd., Hanmi Fine Chemical Co., Ltd. and Hanmi Science Co., Ltd., formerly Hanmi Holdings Co., Ltd. ("Hanmi Holdings"), a company organized and existing under the laws of South Korea" (hereinafter collectively "Hanmi"), for an Order and Final Judgment by Consent; and it appearing that AstraZeneca and KBI, and Hanmi (the "Parties") have agreed to terms and conditions representing a partial resolution of this action and have set forth those terms and conditions in a Settlement Agreement, and by their respective undersigned attorneys, hereby stipulate and consent to entry of this Consent Judgment and good cause appearing,

IT IS this 3rd day of June, 2013

ORDERED, ADJUDGED AND DECREED as follows:

1. This Court has jurisdiction over the subject matter of this action and has personal jurisdiction over the Parties.
2. As used in this Consent Judgment, the term “Affiliate” shall mean, with respect to a Party, any entity or person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with such Party. For purposes of this definition, “control” (a) means ownership, directly or through one or more intermediaries, of (i) more than fifty percent (50%) of the shares of stock entitled to vote for the election of directors, in the case of a corporation, or (ii) more than fifty percent (50%) of the equity interests in the case of any other type of legal entity or status as a general partner in any partnership, or (b) any other arrangement whereby an entity or person has the right to elect a majority of the Board of Directors or equivalent governing body of a corporation or other entity or the right to direct the management and policies of a corporation or other entity.
3. As used in this Consent Judgment, the term “Hanmi Product” shall mean a solid oral dosage drug product containing the esomeprazole moiety that is manufactured, sold, offered for sale or distributed pursuant to NDA No. 202-342, including any supplements or amendments to NDA No. 202-342 but excluding such supplements or amendments after May 22, 2013 that change the mode of administration or active ingredient(s).
4. Hanmi, for itself and its Affiliates, acknowledges and agrees that AstraZeneca’s U.S. Patent Nos. 5,714,504 and 5,877,192 (the “AstraZeneca Patents”) are all enforceable and valid in this and in any other or future cause of action, litigation or proceeding.

5. Under this Court's interpretation of the meaning of "alkaline salts" of U.S. Patent No. 5,714,504 and "pharmaceutically acceptable salt" of the U.S. Patent No. 5,877,192, as reported in the Court's December 12, 2012 Opinion (D.I. 257), the Hanmi Product does not infringe the AstraZeneca Patents under the provisions of 35 U.S.C. § 271.
6. Compliance with this Consent Judgment may be enforced by the Parties and their successors in interest, or assigns.
7. This Court retains jurisdiction to enforce or supervise performance under this Consent Judgment and the Settlement Agreement.
8. Except as provided in the Settlement Agreement, each party shall bear its own costs and attorneys' fees.


Joel A. Risano, U.S.D.J.

We consent to the form and entry of the forgoing Order and Judgment.

s/John E. Flaherty

John E. Flaherty
Jonathan M.H. Short
McCARTER & ENGLISH, LLP
Four Gateway Center
100 Mulberry Street
Newark, New Jersey 07102
(973) 622-4444

Henry J. Renk
Bruce C. Haas
Joshua I. Rothman
FITZPATRICK, CELLA, HARPER
& SCINTO
1290 Avenue of the Americas
New York, New York 10104-3800
(212) 218-2100

Einar Stole
COVINGTON & BURLING LLP
1201 Pennsylvania Avenue, NW
Washington, DC 20004-2401
(202) 662-6000

Attorneys for AstraZeneca and KBI

s/Mayra V. Tarantino

Allyn Z. Lite
Michael E. Patunas
Mayra V. Tarantino
LITE DEPALMA GREENBERG
Two Gateway Center, 12th Floor
Newark, New Jersey 07102
(973) 623-3000

Mark Boland
Michael R. Dzwonczyk
Renita S. Rathinam
SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW Suite 800
Washington, D.C. 20037-3213
(202) 293-7060

John B. Scherling
SUGHRUE MION, PLLC
4250 Executive Square, Suite 900
La Jolla, California 92037
(858) 795-1180

Attorneys for Hanmi